



U.S. Department of Justice

 United States Attorney SDC-SDNY  
 Southern District of New York

MEMO ENDORSED

DOCUMENT

 The Silvio J. Mollo Building  
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 New York, New York 10007

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May 4, 2018

 The Honorable Ronnie Abrams  
 United States District Judge  
 40 Foley Square  
 New York, NY 10007

Defendants shall file a responsive letter no later than May 9, 2018. SO ORDERED

Ronnie Abrams, U.S.D.J.

May 7, 2018

 Re: United States v. Gary Hirst et al.,  
 16 Cr. 371 (RA)

Dear Judge Abrams:

The Government writes as requested by the Court to provide an update regarding the status of stipulations. As described in further detail below, few stipulations have been reached to date.

As the Court is aware, the Government provided its exhibits to the defendants on March 19, 2018, and provided proposed stipulations on March 26, 2018 and April 11, 2018, principally relating to (i) pension fund documents, (ii) bank records, (iii) records of various secretaries of state, (iv) emails, and (v) miscellaneous business and other records. Thereafter the defendants studiously ignored the Government's requests for the execution of the proposed stipulations or for any comment.<sup>1</sup> The defendants similarly ignored repeated directives from the Court that the defendants address the proposed stipulations.

On April 26, 2018, more than a month after receiving the Government's exhibits, the defendants for the first time provided the Government with comments on its proposed stipulations. The Government promptly addressed those comments. The defendants then indicated that they were universally prepared to sign stipulations regarding pension fund documents, bank records, and records of various secretaries of state. The defendants indicated that they wished to further consider certain proposed language with respect to the email stipulation and that certain defendants would not sign the miscellaneous document stipulation until the Government had agreed to sign any similar stipulation they might propose.

On or about April 23, 2018 – the deadline agreed to by the parties and endorsed by the Court – the defendants produced their exhibits and witness lists to the Government.<sup>2</sup> Between April 27 and April 30, 2018, counsel for Morton, Cooney, and Archer each provided the Government with a set of proposed stipulations.<sup>3</sup> The Government promptly began to review

<sup>1</sup> This does not apply to counsel for Morton who has timely dealt with the proposed stipulations.

<sup>2</sup> Counsel for John Galanis has produced neither exhibits nor a witness list. The Government respectfully requests that the Court order counsel for Galanis to provide these materials forthwith.

<sup>3</sup> These consisted principally of omnibus stipulations pertaining to both emails and other documents. Counsel for Archer also requested that the Government stipulate to the authenticity

both the defendants' exhibits and proposed stipulations.<sup>4</sup> The Government has been stymied in this review, however, by various problems with the defendants production of exhibits and by the defendants lack of responsiveness in addressing such problems. For example, Cooney's proposed stipulation includes numerous exhibits that have not, in fact, been provided to the Government. The Government's request for the provision of these exhibits has not yet been met and counsel has represented only that they will do their best to have new exhibits to the Government today. Archer, for his part, produced an entirely new set of exhibits on May 1, 2018, which not only contained 100 new exhibits, but also completely renumbered the previously produced exhibits, thus requiring the Government to begin its review anew.<sup>5</sup>

Accordingly, the present state of affairs is as follows. All defendants have signed the pension fund and secretary of states' stipulations. With the exception of Archer, all defendants have signed the bank records stipulation, which encompasses approximately 12 separate custodians.<sup>6</sup> No defendant, however, has signed either the email or miscellaneous records stipulation, which together encompass approximately 42 separate custodians. Certain of the defendants have indicated that they will not sign such stipulation until the Government has agreed to sign reciprocal stipulations, which for reasons of the defendants' own making the Government is not yet in a position to do. The Government awaits the defendants' answer to the proposed email stipulation discussed by the parties a week ago. The Government will continue to endeavor to work productively to reach stipulations with all defendants. In light of the present status, however, the Government is also preparing to call more than 40 document custodians.

Respectfully submitted,

ROBERT KHUZAMI  
Attorney for the United States, Acting Under  
Authority Conferred by 28 U.S.C. § 515

By: /s/ Rebecca Mermelstein  
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of a Cooney recording and certain Galanis materials. The Government is open to such stipulations and will turn to them following the resolution of the larger omnibus stipulations.

<sup>4</sup> The Government is providing comments to counsel for Morton today and is working productively towards reaching an agreement.

<sup>5</sup> Upon receipt of the newly marked exhibits, the Government immediately requested that Archer provide the Government with a list tracking the new exhibit number of each previously produced exhibit. It was not until this morning that Archer responded to the request.

<sup>6</sup> The Government has repeatedly requested that Archer return the signed stipulation but has not received a response.